

NEBRASKA NATIONAL GUARD

SUPERVISOR USER'S GUIDE

Non-Disciplinary

Disciplinary

and

Adverse Actions

This User's Guide is a basic summary of the actions described in Technician Personnel Regulation 752, Discipline and Adverse Actions. Following the steps in this guide does not excuse a supervisor from reviewing TPR 752, and the appropriate ACT #88 Union Agreement. Point of contact in the Human Resources Office is the Human Resources Specialist (Employee Relations).

1 February 2008

DOUGLAS FACTORS

In determining the appropriate remedy, management must observe the principle of “like penalties for like offenses in like circumstance”. This means penalties will be applied as consistently as possible. A number of factors which management must weight in deciding an appropriate course of action are often referred to as the “Douglas Factors”.

1. Consider the nature and seriousness of the offense, and its relation to the technician’s duties, position, and responsibilities, including whether the offense was intentional or inadvertent, or was committed maliciously or for gain, or was frequently repeated.
2. Consider the technician’s job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position.
3. Consider the technician’s past disciplinary record.
4. Consider the technician’s past work record, including the length of service, performance on the job, ability to get along with fellow workers, and dependability.
5. Consider the effect of the offense on the employee’s ability to perform his/her job at a satisfactory level and its effect on supervisor’s confidence in the technician’s ability to perform assigned duties.
6. Consider the consistency of the penalty with those imposed on other technicians for the same or similar offenses.
7. Consider the consistency of the penalty with NGB guidance regarding disciplinary actions.
8. Consider the notoriety of the offense and its impact on the reputation of the agency.
9. Consider the clarity with which the employee was on notice of any rules violated in committing the offense, or any warning about the conduct in question.
10. Consider the potential for the technician’s rehabilitation.
11. Consider mitigating circumstances surrounding the offense such as unusual job tensions, personal problems, mental impairment, harassment or bad faith, malice or provocation on the part of others involved in the matter.
12. Consider the adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.

GENERAL

Definitions: Checklists and pertinent examples are provided for each of the actions defined below. The negotiated agreement procedures only apply to employees in bargaining unit status (contact the HRO Labor Relations Specialist for further clarification).

COUNSELING - Normally used to resolve a problem without a need for disciplinary or adverse action. It is a non-disciplinary action and should be presented and conducted as such. This step enforces expectations and helps establish clear communications between a supervisor and an employee.

WARNING - This is more serious than counseling and leaves no question for the employee that more serious action may occur if the problem is not corrected. It is a non-disciplinary action.

ORAL ADMONISHMENT - This is a notification to an employee to stop the subject course of action or behavior. It is a disciplinary action.

LETTER OF REPRIMAND - This is a documented procedure that establishes a written record of an employee committing a violation of TPR 752. Unless the employee's initial action is a serious enough offense to justify a letter of reprimand, counseling, warning and/or oral admonishment should be the first course of action. A letter of reprimand is considered a disciplinary action.

ADVERSE ACTION - There are only three types of adverse actions. They are the most serious forms of discipline in the military technician system provided under TPR 752. The three types of adverse actions are:

- Suspension - removal from the workplace without pay for a certain period of time or indefinitely.
- Change to Lower Grade - Reduction to a lower pay grade.
- Removal - Termination from technician employment.

COUNSELING CHECKLIST

- _____ 1. Supervisors are not required to contact the Human Resources Office for this action. Those not experienced with performance counseling should contact a peer supervisor, their next higher level supervisor, or the HRO-ERS Employee Relations Specialist) for guidance.
- _____ 2. The counseling session must be a private, minimal stress, and businesslike exchange of information between supervisor and employee.
- _____ 3. The supervisor must be able to keep the conversation to the desired subject.
- _____ 4. The purpose of the counseling session must be focused on, and essentially limited to, the areas of concern relating to the employee's conduct or job performance.
- _____ 5. The supervisor should annotate in pencil on the NGB Form 904-1 that the counseling session was conducted,. Verbatim record is not necessary. Only the subject of the counseling and the date are required. The employee must initial the entry. If the employee refuses to initial note next to the entry. The NGB Form 904-1 is maintained in the supervisor's record folder.
- _____ 6. Advise technician the notation will remain on the NGB Form 904-1 until the supervisor determines it is no longer necessary.
- _____ 7. Establish a date to review the issue and possibly remove the entry.

WARNING CHECKLIST

- _____ 1. Supervisors do not have to consult with the Human Resources Office for this action. It is an advanced action based upon the severity of the situation. Would normally be used after a counseling session has been utilized without desired results.
- _____ 2. Conduct the warning meeting in a private setting. The presence of a witness must be explained at the beginning, if used. Fair consideration must be given if the employee objects to the presence of the witness. The employee may also want their own witness present (i.e., labor representative or co-worker).
- _____ 3. The Supervisor must guide the conversation. Inexperienced supervisors may benefit from consulting with their next higher supervisor, an experienced peer supervisor or the HRO before having a warning meeting.
- _____ 4. The purpose is to improve the employee's behavior, conduct or job performance.
- _____ 5. Warn the employee that disciplinary or adverse action may result if the subject issue is not corrected.
- _____ 6. Annotate the warning meeting in pencil on the employee's NGB Form 904-1. Verbatim record is not necessary. Only the subject of the warning and the date are required. The employee must initial the entry. If the employee refuses to initial, note next to the entry. The NGB Form 904-1 is maintained in the supervisor's record folder.
- _____ 7. Advise the technician that the notation will remain on the NGB Form 904-1 until the supervisor determines it is no longer necessary.
- _____ 8. Establish a date to review the issue and possibly remove the entry.

ORAL ADMONISHMENT CHECKLIST

- _____ 1. Supervisors do not have to consult with the Human Resources Office for this action. It is an advanced action based upon the severity of the situation. Would normally occur after a warning. Having a third party (witness) present during the meeting may be appropriate.
- _____ 2. The supervisor must discuss the issue(s) with the employee and allow them the opportunity to explain their viewpoint. The supervisor must be certain that the facts warrant a disciplinary action. Otherwise it may be more appropriate to return to counseling or warning procedures.
- _____ 3. The supervisor must give appropriate feedback on the employee's actions or behavior that is the basis for this disciplinary action. Correcting a violation or behavior must be the objective of the discussion.
- _____ 4. Annotate the oral admonishment meeting in pencil on the employee's NGB Form 904-1. Indicate the subject matter of the meeting and the date of discussion. The employee must initial the entry. If the employee refuses, note next to the entry. The NGB Form 904-1 is maintained in the supervisor's record folder.
- _____ 5. Advise the technician that the notation will remain on the NGB Form 904-1 until the supervisor determines it is no longer necessary.
- _____ 6. Establish a date to review the issue and possibly remove the entry.

LETTER OF REPRIMAND CHECKLIST

- ____ 1. Supervisors must consult with the Human Resources Office, Employee Relations Specialist, throughout the process of determining the need for a letter of reprimand. The principles of progressive disciplinary procedures apply. The supervisor should ask these questions when determining if a letter of reprimand is appropriate. "Is this being done?":
- ____ a. A counseling, warning, and/or oral admonishment has already been completed on the same issue, but has proven ineffective?"
- ____ b. Because the offense the employee is believed to have committed, according to TPR 752, that it justifies more than the preceding actions?"
- If the answer is "NO", return to the previous checklists and take the appropriate action.**
- If the answer is "YES", proceed with is checklist.**
- ____ 2. The supervisor should conduct a fact-finding investigation that includes an opportunity for the employee to provide an explanation or express their views on the issue. Be certain that an objective third party would agree that the facts warrant and fully support a letter of reprimand.
- ____ a. **NO** - if the facts gathered do not fully support a permanent record of a disciplinary action return to the previous checklists and take the more appropriate action.
- ____ b. **YES** - if the fact-finding fully investigation supports a letter of reprimand inform the employee, and set a meeting time and location to present the letter. Continue with this checklist.
- ____ 3. Contact the HRO, Employee Relations Specialist, to review the draft of the letter before issuance. At a minimum, the letter must meet the following requirements:
- ____ a. If issued by other than the first line supervisor, the letter of reprimand must be endorsed through the first line supervisor.
- ____ b. Define the violation according to TPR 752. Use a brief and factual description of the actions or events that give the best connection to the violation definition.
- ____ c. Include any past violations of the same nature, and the actions that were taken to correct them (counseling, admonishment, etc.).
- ____ d. Include the date that the letter will be removed from the Official Personnel File (OPF) in the HRO.
- ____ e. Include that it is grievable through the State Administrative Grievance Procedures
- ____ f. Include a warning statement that further offenses (of any nature) could result in more severe adverse actions.
- ____ 4. Review the final draft letter with the HRO ERS before presenting it to the employee.
- ____ 5. Prior to discussing a reprimand, if a bargaining union employee present the option for representation.

Sample Union Statement

I, _____, **request / decline** union representation during formal counseling/reprimand on _____ (i.e. attendance related offense)

Date

Technicians Signature

- ____ 6. The supervisor must have a method of destroying copies of the letter, and removing any notations on the NGB Form 904-1 relating to this action, at the same time that the letter of reprimand is removed from the OPF in the HRO.

(Sample #1 - Letter of Reprimand)

29 March XXXX

MEMORANDUM FOR: _____

SUBJECT: Letter of Reprimand

(Describe the offense and summary of past violations with action taken)

1. You are formally reprimanded for your actions and/or inaction detailed in this letter based on your _____ (use TPR 752 for nature of offense i.e. abuse of sick leave).
 - a. On 2 - 5 January XXXX you _____.
We discussed the circumstances and you received counseling.
 - b. On 9 - 12 January XXXX you _____.
We discussed the repeat violation and you received an oral admonishment.
 - c. On 22 - 23 January XXXX you _____.

I did not receive a call from you at anytime during the periods of absence. You informed me that the leave was for the purpose of _____. Upon your return, when asked about your absence, you then informed me that the time was not used for the purpose requested.

2. Upon receipt of this letter you are expected to be present for work unless you have scheduled leave or requested sick leave in accordance with established leave procedures. Sick leave will be authorized in all bona fide cases and may be granted orally by contacting myself or in my absence, _____. Acceptable evidence of injury or illness may be required.

(Retention Period in OPF & warning of further offenses)

3. This reprimand will be filed as a temporary document in your Official Personnel Folder at HRO and in my supervisory folder for a period of _____ year(s). Should further offenses occur during this period, they may result in suspension, change to a lower grade, or removal.

(Grievable)

4. This reprimand may be grievable through the State or negotiated grievance system as applicable except as prohibited by TPR 752.

(Assistance)

5. The employee assistance program is available to you should you desire. Lavonne Rosenthal located at the Adjutant Generals Office is available to discuss this program with you in more detail or you may contact the Employee Assistance Program directly by calling Military One Source 1-800-342-9647.

Supervisor

CF:
HRO
ACT Chapter #88

I, _____, acknowledge receipt of this Letter of Reprimand dated _____.

Date

Technicians Signature

(Sample #2 - Letter of Reprimand)

28 March XXXX

MEMORANDUM FOR _____

SUBJECT: Letter of Reprimand

(Describe the offense and summary of past violations with action taken)

1. This letter of reprimand is based on your _____ (i.e. absences without consideration of the mission requirements and work schedule, unable to locate you during working hours). This has proven to be _____ (an inconvenience) for me and others to whom you _____ (must be readily available to do the business of the branch)
2. I have spoken with you on _____ (date) concerning this matter. You _____ (insisted that others left the area as well). You _____ (assured me that you would let others know when you were leaving in the future). Since that date, I have _____ (failed to locate you on four occasions). In each case, _____ (I left word for you to call me and waited for a response).

Retention Period in OPF & warning of further offenses)

3. As a result of the above, you are expected to _____ (be present for work unless you have scheduled or requested leave. You will request in advance the use of annual leave, compensatory time or sick leave for scheduled appointments a minimum of two workdays prior to the leave being taken. If circumstances do not allow you to schedule leave in advance you are hereby required to request leave by contacting me personally, not by voice mail, and should I be unavailable you will personally contact _____ or _____ within 30 minutes after the start of the workday. Sick leave will be authorized in bona fide cases. Acceptable evidence of injury or illness may be required.)
4. Should I have evidence that this requirement has been violated, disciplinary action may result. This reprimand will be filed as a temporary document in your Official Personnel Folder at HRO and in my supervisory folder for a period of _____ year(s). Should further offenses occur during this period, they may result in suspension, change to a lower grade, or removal.

(Grievable)

5. This reprimand may be grievable through the State or negotiated grievance system as applicable except as prohibited by TPR 752.

(Assistance)

6. The employee assistance program is available to you should you desire. Lavonne Rosenthal located at the Adjutant Generals Office is available to discuss this program with you in more detail or you may contact the Employee Assistance Program directly by calling Military One Source 1-800-342-9647.

Supervisor

Cf:
HRO
ACT #88

I, _____, acknowledge receipt of this Letter of Requirement.

Employee Signature

Date

PREPARATION OF ADVERSE ACTION CHECKLIST

- _____ 1. An adverse action should not be proposed if:
- a. The actions are exclusively poor job performance.
 - b. A reduction is necessary because of a Classification action or determination.
 - c. Reduction-in-force or furlough, or other circumstances that may entitle an employee to grade and/or pay retention (or may terminate those entitlements).
 - d. Termination of a temporary or probationary employee, or temporary promotions or details.
 - e. An employee has reached mandatory retirement, or has been notified of military non-retention.
 - f. There is reason to deny a Within Grade Increase (WGI).
 - g. There is evidence of violation of State or Federal Law.
 - h. An employee has received a pay increase that you believe is contrary to Federal law or regulation.
 - i. Recording an absence on the official timecard as Absent Without Leave (AWOL).
 - j. Placing a part-time employee in a nonduty (non-paid) status.
- _____ 2. Continue with checklist if none of the conditions previously listed exist. The supervisor should ask these two questions: "Is this being done...?"
- _____ a. A counseling, warning, oral admonishment, and/or a letter of reprimand has already been completed on the same issue, but has proven ineffective?"
- _____ b. Because the offense the employee is believed to have committed is of such magnitude (according to TPR 752) that it justifies more than the proceeding actions?"
- If the answer is "NO", return to previous checklists and take the more appropriate action.**
- If the answer is "YES", proceed with this checklist.**
- _____ 3. Adverse Actions – there are three types:
- a. Suspension (includes indefinite suspension)
 - b. Change to a lower grade (Demotion)
 - c. Removal
- _____ 4. The supervisor must be confident that there is cause and sufficient evidence to proceed with an adverse action. Consider the following relevant factors in penalty selection:
- a. The nature and seriousness of the offense and its relation to the employee's duties, position and responsibilities, including whether the offense was intentional, technical, inadvertent, committed maliciously, for gain or was frequently repeated.
 - b. The employee's job level and type of employment, including supervisory or fiduciary role, contact with public and prominence of the position.
 - c. The employee's past disciplinary record.
 - d. The employee's past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability.
 - e. The effect of the offense upon the employee's ability to perform at the satisfactory level and its effect upon the supervisor's confidence in the employee's ability to perform assigned duties.
 - f. The consistency of the penalty with those imposed upon other employees for the same or similar offenses in like or similar circumstances.
 - g. The notoriety of the offense or its impact upon the reputation of the agency.
 - h. Consistency of the penalty with any applicable agency table of penalties.
 - i. The clarity with which the employee was on notice of any rules that were violated in committing the offense or had been warned about the conduct in question.
 - j. Potential for the employee's rehabilitation.

k. Mitigating circumstances surrounding the offense such as unusual job tension, personality problems, mental impairment, harassment, or bad faith malice, or provocation on the part of others involved in the matter.

l. The adequacy and effectiveness of the alternative sanctions to deter such conduct in the future by the employee or others

_____ 5. The supervisor should conduct a fact-finding investigation before issuance of the adverse action. Read TPR 752, and contact the HRO Employee Relations Specialist. Remember that the supervisor can only recommend an adverse action. A next level supervisor will issue the original decision letter which is subject to appeal.

_____ 6. The following information should be considered in planning to propose an adverse action:

_____ a. An employee may continue to perform their normal duties in their current position, be placed in a paid non-duty status, be placed on enforced leave, or be detailed to another position for all, or part, of the period needed to process the adverse action. Contact the HRO-ERS for further guidance

_____ b. A bargaining unit employee has the right to a Union Representation under the Weingarten Right if the employee reasonably believes that the examination may result in disciplinary action. Representation by an attorney is not allowed during the administrative portion of an adverse action proposal. Legal representation is allowed if the original decision is appealed to the Adjutant General.

PROPOSAL OF ADVERSE ACTION BY IMMEDIATE SUPERVISOR CHECKLIST

NOTE: Prior to issuing an adverse action, all paperwork must be submitted through the HRO for review.

- _____ 1. Supervisor will contact the HRO-Employee Relations Specialist (ERS) before any action is taken.
- _____ 2. The supervisor and the HRO-ERS will review the information, evidence and the supervisor's choice of definition of the offense and proposed penalty.
- _____ 3. The Supervisor's Letter of Proposed Adverse Action will contain the following minimum items:
 - _____ a. State what action is being proposed.
 - (1) Suspension - indicate the number of "calendar" days.
 - (2) Demotion – (Change to lower grade) Provide the title, pay plan (GS, WG, etc.), series, grade and organization/location of the position. Coordination and agreement with the gaining supervisor must be accomplished prior to this proposal.
 - (3) Removal - termination as a technician employee.
 - _____ b. Include the start date of the proposed action.
 - (1) Delay suspension or demotion to include enough time for the employee to prepare their reply, and the deciding official to complete the original decision .
 - (2) A removal requires a minimum of 30 days beyond the issuance date of the proposed adverse action letter.
 - _____ c. State the reasons for the proposed action.
 - (1) Document specifics such as: who, what, where, when and how
 - (2) Reference the violation of regulations, SOPs, policy letters, etc. (if applicable). Double check for accuracy and currency.
 - _____ d. Using the labels for offenses indicated in TPR 752, Appendix D, is advised. Avoid:
 - (1) Including actions (such as offenses) that do not exactly relate to the label.
 - (2) Mislabeling. An example is making a charge of AWOL when there is a past practice of charging annual leave for unexplained absences.
 - _____ e. Provide a brief, clear rationale for the penalty selected.
 - _____ f. State that the employee has the right to all materials on which the proposed action is based on.. The employee has the right to review the case against them and be allowed to counter any evidence to the best of their ability in their written or oral reply to the deciding official.
 - _____ g. Inform the employee of their right to reply. This paragraph will include:
 - (1) To whom to reply (normally the next higher supervisor)
 - (2) Include a **calendar day** time limit for the employee's reply to the deciding official.
 - (3) Indicate the right to use excused absence to prepare the reply (consult the HRO Employee Relations Specialist, 4 to 8 hours is normally sufficient).
- _____ 5. Supervisor should notify the chain of command of intent and brief the circumstances of the adverse action.
- _____ 6. Review the draft proposal of adverse action letter with the HRO-ERS and provide a copy of all supporting documentation.
- _____ 7. The HRO-ERS will coordinate all adverse action proposals with the HRO, Labor Relations Specialist and JAG as appropriate.
- _____ 8. Prior to discussing a reprimand, if a bargaining union employee present the option for representation.
Sample Union Statement : I, _____, **request / decline** union representation during formal counseling/reprimand on _____ (i.e. attendance related offense)
- _____ 9. After HRO review and approval, deliver the letter to the employee:

_____ Date

_____ Technicians Signature

(Sample Proposed Letter)

15 April XXXX

MEMORANDUM FOR _____

SUBJECT: Proposed Adverse Action

(Action Proposed)

1. This memorandum serves to inform you that I am proposing _____ (suspension for ____ days, Change to the lower grade of _____, removal from your technician position of WG-4444-10, Aircraft Assembler. The proposed effective date is _____.

(Reason for action)

2. Reasons for this proposed adverse action are as follows:

- a. _____ (Offense and basic facts – when, where)
- b. _____ (Offense and basic facts – when, where)
- c. _____ (Prior reprimands, oral admonishments, counseling)

(Rational for

3. My reason for _____ (action proposed) as appropriate is based on the facts that _____ (senior/experienced supervisor/staff member, etc). The level of experience and professional ethics expected of you must be of the highest quality. You have not demonstrated those abilities as outlined below:

- a. Failure to _____ .
- b. You intentionally _____..

(Right to review)

4. You have the right to review the results of the documents and/or investigation relied upon for this proposed action. Contact me for that information to review.

(Right to reply)

5. You have the right to reply, orally or in writing to the Deciding Official, _____. He can be reached by telephone at 309-_____ or in person located at _____, Lincoln, NE 68058. You have until 1600hrs, _____ to respond to _____, who will issue a notice of decision after receipt of your response, or after the reply period has ended. Any time extension concerning the response to this action must be directed to the Deciding Official.

(Right to Excused Absence)

In order to review materials, secure statements and prepare a reply to this proposed action, excused absence must be requested and approved by the undersigned.

(HRO POC)

You may contact MSG Deb Tankesley, Employee Relations Specialist, for procedural assistance, if necessary. She may be contacted at 309-7118, HRO, 1300 Military Road, Lincoln, NE.

SUPERVISOR

CF:
Deciding Official
HRO

I acknowledge receipt of the Notice of Proposed Adverse Action concerning me dated _____. I further understand I am entitled to reply to the Deciding Official in writing or in person before 1600hrs, _____.

Date: _____ Technician Signature: _____

DECIDING OFFICIAL'S CHECKLIST FOR THE EMPLOYEE'S REPLY

NOTE: The Deciding Official has a limited amount of calendar days to reply to the employee concerning the final decision.

- _____ 1. If the employee provides an oral reply:
 - a. Give it equal consideration as if it were a written reply.
 - b. Make a thorough written summary (notes, etc.) of the oral reply.
- _____ 2. If a written reply is submitted:
 - a. Read through the written reply in its entirety.
 - b. Ensure the employee is available to clarify any items (if needed).
 - c. When the reply disputes reasons included in the proposed notice, the Original Decision Letter must include a response to that dispute to show that there does in fact exist a basis for the reason.
- _____ 3. If no employee reply:
 - a. Indicate in the original decision letter that no replies were received.
 - b. A decision to take an adverse action cannot be made solely on the basis that the technician failed to refute the charges.
- _____ 4. The employee is not entitled to call upon witnesses, but the deciding official may choose to call witnesses to provide testimony on contradictory, or unclear items, from either the proposal of adverse action letter, or the employee's reply.
- _____ 5. Contact the HRO, Employee Relations Specialist, prior to the Deciding Official's reply date and after receiving the employee's reply. The ERS can provide assistance in resolving open issues and preparing for the original decision letter.

ORIGINAL DECISION LETTER BY DECIDING OFFICIAL CHECKLIST

- _____ 1. Prepare letter after receiving technicians reply or after reply period has expired.
- _____ 2. If, when reviewing the facts you deem it will take longer than 15 calendar days, provide that information to the employee (or their representative) in writing.
- _____ 3. Your original decision letter must contain:
 - _____ a. Action decided upon. The deciding official may:
 - (1) take no action
 - (2) reduce the proposed action
 - (3) uphold (agree with) the proposed action(The deciding official may not increase the penalty.
 - _____ b. Effective date of action.
 - _____ (1) Reference to a day means calendar days, not work days.
 - _____ (2) For removal, the employee must have had no less than 30 calendar days since receiving the proposal of adverse action letter.
 - _____ (3) An employee cannot be removed on a non-working day.
 - _____ c. Reference the employee's reply.
 - _____ (1) If reply is received you must respond to it.
 - _____ (2) If reply is not received you must reference that fact but you may not consider it as a reason for concurrence with a proposal.
 - _____ (3) If you receive a late reply it is your decision whether to consider it.
 - _____ d. If you sustain the proposal in its entirety, you need not explain why. If you reduce the penalty, take no action, or sustain only some of it, you must explain why.
 - _____ e. Give the name, telephone number, and address of the HRO staff member who the technician can contact for procedural assistance in appealing the decision.
 - _____ f. Provide appeal rights if you take any action by using this statement
Regardless of the appeal method, a final decision on the appeal is issued by the Adjutant General. A written request for an appeal must be sent to the HRO. A request for extension should be in writing to the HRO and include justification for the additional time."
- _____ 4. Clear your letter through the HRO-ERS, prior to issuance. The letter will then be coordinated through the HRO-Labor Relations Specialist and the JAG for final review, if applicable.
- _____ 5. After HRO review and approval, deliver the original decision letter to the employee (or their representative):
 - _____ a. In person, have them acknowledge receipt by signing and dating a copy. At the technician's request, a witness or union representative may be present.
- _____ 6. Send a copy to the supervisor who initiated the proposed action, and the HRO

SAMPLE – ORIGINAL DECISION LETTER

MEMORANDUM FOR _____

SUBJECT: Original Decision Letter

(Action Proposed and Action Decided Upon)

1. On _____ 2008, MAJ John Masters proposed that you be _____ (*suspended for ____ days, changed to the lower grade of __, removed effective _____*) from your technician position. I have decided that there is just cause to warrant the _____ (*action*); however, I have concluded that your _____ (*action*) will not promote the efficiency of the Nebraska National Guard. Therefore, I have reduced the proposed from _____ (*action*) to _____ (*action*).

(When Action will be effective)

2. Effective _____ you will be _____ (*action*) from your position _____ (*title, grade, position description*). (*If change to lower grade put in that title, grade and PD, also*)

(Note the employee's reply was reviewed, investigated, etc.)

3. I have given full consideration of your written reply dated _____. I have reviewed and examined each of the stated charges against you and have concluded that there does in fact exist a basis for this action.

(Reasons for the Decision)

4. From my review the reasons for adverse action, I have determined the following:

a. Dereliction of duties (*Offense*). I have concluded that you did exhibit _____ of duties expected of a GS-16, Chief OF. I find the reasons outlined in paragraphs 1, 2 and 3 of the proposed notice sustained.

b. Failure to provide proper regulatory guidance (*Offense*). I have concluded that you did provide adequate guidance and I find the reasons stated in paragraph 4 and 5 of the proposed notice can not be sustained.

(HRO contact)

5. You may contact MSG Deb Tankesley, Employee Relations Specialist, (402) 309-7118 located at HRO, 1300 Military Road, Lincoln, NE 68508-1090, for procedural assistance, applicable regulations and questions relative to your rights. You may have a personal representative, at your own expense, assist you in this matter.

(Appeal rights)

6. In accordance with TPR 752, you have the right to appeal this Memorandum of Original Decision. You may request an appellate review, or an administrative hearing. You may not have both. The appellate review will be conducted by the Adjutant General. An administrative hearing would be conducted by an NGB Hearing Examiner with recommendations made to The Adjutant General. In either option selected, the final decision is issued by The Adjutant General.

7. Should you elect to appeal this decision, send a written notice of appeal to LTC Judd H. Lyons, HRO, 1300 Military Road, Lincoln, NE 68508-1090. You must specify whether you desire an appellate review or an administrative hearing. Your request for appeal must be received by the HRO, no later than close of business _____ (20 calendar days from receipt of this letter). If you need a time extension, you may request one of The Adjutant General, through the HRO.

Deciding Official

CF:
Supv
HRO

I, _____, acknowledge receipt of this Original Decision letter concerning me dated _____ 1996. I further understand I am entitled to appeal to The Adjutant General in writing before the close of business _____ 1996.

Date

Technician Signature